



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

THE WOMEN'S NIGHT COURT IN NEW YORK CITY

BY FREDERICK H. WHITIN,

General Secretary, Committee of Fourteen, New York.

To deal more wisely and hence more effectively with the social evil is the chief purpose of the women's night court; "women's" only in that the defendants are all females. For but one offense does the number of women arrested exceed that of men—prostitution, and even that included, 85 per cent of those arrests are men.¹

During the winter of 1907, Judge (now district attorney) Whitman secured legislation which authorized a night court. The reason for such a court was the injustice which frequently was done persons arrested after the close of court, about 4 p.m. Until the courts had opened at 9 a.m. the following day, such defendants as could not give bail were detained in jail, so that many innocent persons were often held for twelve hours or more, for 40 per cent of those arrested are discharged by the magistrates. Bail unless given by a friend means a fee to a professional bondsman; the poor man has few friends with the necessary security and the fee is often more than the probable penalty. The principal sufferer from the professional bondsmen was the prostitute, the street walker. Arrested when her day's opportunities were best, she readily paid the bondsman's fee of \$5. It was common talk that the fee went "three ways." The records themselves showed that the woman who did not secure bail was more likely to be convicted than one who did.

The first night court—it was for offenders of both sexes—was opened August, 1907. In 1908, 25 per cent (46,523 persons) of the total arraignments in the magistrates' courts of Manhattan and the Bronx were in this court. The inferior criminal courts commission of that year gave especial attention to this court and its recommendations represented the next development.

Two night courts were established, one for men and one for women. The chief magistrate may designate the magistrates to

¹ Report of Police Department, 1912, Arrests: Felonies—males, 17,066; females, 1,714; misdemeanors—males, 90,049; females, 17,178.

preside in the women's night court—the magistrates rotate in all the other courts. A system of fingerprint identification for prostitutes was provided in this court and an attempt was made to deal with the social evil from the side of disease. This was the famous clause 79 which required every woman convicted of prostitution to be examined by a health department physician and if diseased to be committed to a lock hospital. This clause was opposed because a possible step towards reglementation. It was declared to be unconstitutional not because of sex discrimination as was argued by its opponents but because the draftsman of the clause had written a mandatory “shall” instead of a permissive “may,” thereby denying the defendants their constitutional right of a day in court. These were the commission's amendments peculiar to this court. It shared with the others the many benefits and improvements resulting from the legislation, the result of the commission's labors.

Each year since 1910 the law affecting the court has been widened and improved. Cases of soliciting, loitering and of tenement prostitution are now tried solely in the women's night court. The fingerprint identification has been extended to include cases of vagrancy and intoxication. The fine as a disposition in prostitution cases has been abolished and the age limitation (thirty years) has been removed for commitments to the state reformatory for women at Bedford. The cases of women charged with keeping disorderly houses or of committing prostitution in tenements (at present the most extensive form of the evil in this city) are now promptly tried and disposed of in this court.

With the increased interest in sex problems and in fallen women, the women's night court has attracted much attention. As the interest has resulted in giving assistance to the probation officer, Miss Alice Smith, it has been very acceptable, but as it has drawn a morbid crowd of men and women, boys and girls, it is much to be regretted. Some nights the theatrical sign S. R. O. (standing room only) is needed at the entrance. It is hoped that some legal way may be found to exclude the miscellaneous observers without violation of the constitutional right of public trial.

The chief magistrate has each year assigned four magistrates to sit regularly in this court. Judges Barlow, Herbert and Murphy have recently been re-assigned for the fourth year. To them, and to Miss Smith, is the credit due for the success which has attended

the work of this court. The much desired uniformity of sentence has been secured. Any woman, a first offender, who genuinely desires to leave "the life" finds here not one but many open doors to help her. There are, however, among those apprehended for the first time, some hardened offenders, and these Miss Smith speedily detects. The magistrates are guided very largely by her opinion as to whether the women shall be put on probation, sent to a reformatory institution or the workhouse. The woman who desires that those criminally responsible for her fall and life shall pay the penalty, finds at this court, ready and anxious to act, the judge, the attendants and the police. Cases occasionally occur where women familiar with the court because of their own arraignment there, come to the court in some hour of resentment and give such testimony that the man whom they have been supporting can be apprehended. More frequently Miss Smith or the arresting officer will get the girl's story and so a case against the man is secured. He has been even arrested in the court room itself. But the girl must give the necessary evidence and must not weaken on trial. It depends on her testimony whether the man escapes or whether he gets six months or a year in the penitentiary. These are the cases of the pimps, men who live in whole or in part off the profits of prostitution. Compulsory prostitution is a felony and convictions before a petit jury (cases not tried in this court) are difficult to obtain if the complaining witness is a professional prostitute and jealousy or revenge can be shown to be a motive.

The work of this court shows plainly from the records. The first year for which detailed figures are available of the disposition of prostitution cases is 1907. These are from the report of the research committee of the committee of fourteen and the report of a special investigation by the city commissioners of accounts:

	1907		1913	
	Number	Per cent	Number	Per cent
Arrests.....	8806		3006	
Discharged.....	3227	37	347	11
Convicted.....	4579	63	2659	89

DISPOSITIONS

	1907		1913	
	Number	Per cent	Number	Per cent
Workhouse.....	999	18	2083	78
*Fined.....	3911	71	0	0
Probation.....	325	6	303	12
Institutions.....	18	0	237	9
Other disposition.....	226	5	36	1

* By a 1913 amendment to the law this disposition is no longer possible.

The comparison of the tables is striking. The number arrested has decreased two-thirds yet street soliciting has been much reduced. The percentage convicted has arisen from 63 per cent in 1907 to 87 per cent in 1913, despite the increased severity of sentence. Whereas 71 per cent of those convicted were fined in 1907 that disposition was impossible in the latter half of 1913. The proportion put upon probation has doubled while those sent to reformatory institutions have increased from an absolute few to as many and more than the institutions can accommodate. As probation is useless except in special cases, the workhouse commitment is the only recourse in the majority of cases, and this disposition has increased more than four-fold. The workhouse commitment can do the women no good even at the best and the New York City institution is the worst, yet detention there acts as a strong deterrent to any aggressive pursuit of "the life." Efforts must be made to improve that institution, for as it is today, the magistrates will not impose long sentences even on the repeated offender.

Since the adoption of the fingerprint identification system, complete records have been available. Since the records began in September, 1910 (forty months) 5,492 different women have been convicted of prostitution in the women's court. Of these 3,075 or 56 per cent have been convicted but once; they represent the casual, the woman who brought face to face with the penalties of "the life" changes her course. Many undoubtedly leave the life—the majority probably—others leave the city for places where repression is not so active while some avoid re-arrest. It would seem reasonable to consider the woman who is arrested over four times a persistent offender. These number 587, a relatively small proportion, their cases constituting 11 per cent of all convictions of this offense. These

are the women who should be permanently restrained since it is evident that they cannot or will not cease to be a social menace.

The complete record is as follows:

CONVICTIONS FOR PROSTITUTION (SOLICITING, LOITERING AND VAGRANCY—
TENEMENT PROSTITUTION) AT WOMEN'S COURT. SEPTEMBER 1,
1910 to DECEMBER 31, 1913

Reported by Identification Bureau

INDIVIDUALS	CONVICTED	INDIVIDUALS	CONVICTED
3,075	once	47	eight times
966	twice	27	nine times
562	three times	24	ten times
302	four times	15	eleven times
200	five times	7	twelve times
144	six times	2	thirteen times
121	seven times		

The individual records of the two women who have been convicted thirteen times each—the highest so far—are of especial interest, and also show the details upon which the above tables are based:

RECORD OF CONVICTIONS AS A PROSTITUTE OF MARY SMITH

Fingerprint Bureau No. 107

DATE	DISPOSITION	CHARGE	JUDGE
October 22, 1910.....	Workhouse	Soliciting	Herbert
April 4, 1911.....	Workhouse	² Soliciting	Murphy
September 12, 1911.....	Workhouse, 5 days	² Loitering	Murphy
September 20, 1911.....	Workhouse, 5 days	Loitering	Herbert
September 30, 1911.....	Workhouse, 10 days	Loitering	Barlow
October 24, 1911.....	Workhouse, 10 days	Loitering	McQuade
November 11, 1911.....	Workhouse, 20 days	Soliciting	Murphy
December 26, 1911.....	Workhouse, 10 days	Loitering	Herbert
February 27, 1912.....	Workhouse, 30 days	Loitering	Murphy
April 11, 1912.....	Workhouse, 30 days	Loitering	Herbert
May 12, 1912.....	Workhouse, 30 days	Loitering	Herrman
July 7, 1912.....	Workhouse, 30 days	Loitering	Harris
October 5, 1912.....	Workhouse, 30 days	Loitering	Herbert

² When the charge is soliciting, the evidence shows such crime directly. When the charge is loitering, the crime is the same but is shown by circum-

RECORD OF CONVICTIONS AS A PROSTITUTE OF MARY GOLDEN

Fingerprint Bureau No. 1028

DATE	DISPOSITION	CHARGE	JUDGE
March 9, 1911.....	Fine, \$10.00	Loitering	Barlow
March 9, 1911.....	Fine, 10.00	Loitering	Barlow
March 23, 1911.....	Fine, 5.00	Loitering	Herbert
April 30, 1911.....	Workhouse 10 days	Soliciting	Herbert
June 9, 1911.....	Fine, \$10.00	Loitering	Barlow
June 26, 1911.....	Workhouse 5 days	Loitering	Herbert
June 26, 1911 ³	Workhouse 30 days	Loitering	Herbert
August 12, 1911.....	Workhouse 5 days	Loitering	Murphy
September 14, 1911.....	Workhouse 15 days	Loitering	Murphy
October 19, 1911.....	Workhouse 10 days	Soliciting	McQuade
March 22, 1912.....	Workhouse 30 days	Loitering	Barlow
May 14, 1912.....	Workhouse 20 days	Loitering	Herbert
December 30, 1912.....	Workhouse 20 days	Loitering	Herbert

It is of special interest to note that neither has been convicted for a year past, a year when the city has been a closed one to vice. What has become of them—in which of the possible classes they may be—is unknown.

The women's night court is doing its work in dealing with the problem of the social evil and doing it well. The next development is proper treatment of the persistent offender.

We must have a farm branch of the workhouse where the incorrigible and hopeless can be detained for long periods if not permanently and where by their work they can pay the cost of their maintenance. We need an industrial school, not necessarily a reformatory, where the women can be made economically more efficient. We must detain those who because of having a communicable disease are a social menace and we must protect those not able to care for themselves because of mental deficiencies. It is because of this tremendous problem, one great enough with abundant funds, but one which in fact must be handled with relatively limited means that

stantial evidence of the witnesses, with but few exceptions a police officer in citizen clothes.

³ The second arrest on the same date was possible because she had had her trial postponed in the first case and had been released on bail. It was while so released that the second arrest occurred.

Mayor Mitchel successfully persuaded Dr. Katherine Bement Davis to leave the State Reformatory for women and to become the first woman Commissioner of Corrections in New York City. She has as great chance now as she had at Bedford ten years ago. May she succeed equally well!